

nssofar as they abided by the customary practice of their community, they would avoid a plaintiff verdict. Even when the locality rule was abolished and supplemented by the "in the state of Washington" phrase, most physicians continue to look at the professional standard of behavior as the test. Not so, says our Supreme Court loud and clear. It is the standard of carefulness of the reasonably prudent health provider as judged by the jury which supervenes. On occasion the issue of imprudence has seemed very clear in the court's mind. For example, our Supreme Court has declared the necessity of conducting a procedure so obvious that failure to do so has been determined as a "matter of law" to constitute negligence.

In summary, Professor Roddis emphasizes four important points:

(1) "The prevailing customary practice among other physicians is not the conclusive standard for the determination of negligence in medical professional liability cases in Washington. The prevailing standard of practice continues to be an important test and probably governs the results in most cases. However, when a plaintiff can produce other evidence indicating that the defendant physician's conduct was *imprudent*, it is open to the jury to find liability, irrespective of the

standard of practice. The shift in emphasis toward a reasonably prudent physician standard affects both the tenor and thrust of the evidence developed in trial and the climate of settlement.

(2) "It is particularly interesting that all three of the Supreme Court cases involved *diagnostic failures*. The liability door has opened wide, both in Washington and in other states in the diagnosis area, particularly because of the double-push of expansive application of the informed consent doctrine and erosion of the controlling effect of prevailing factors as the test of negligence.

(3) "One would hope that the appellate courts will not pursue the propensity for deciding that various medical procedures are required "as a matter of law" other than in certain highly-unusual cases. Otherwise, we will find ourselves with a judicially-authored manual on required defensive medical practice.

(4) "I doubt that a further effort to legislatively re-establish a conclusive standard of practice test for medical negligence would succeed."

#### Issues for Discussion

In your hospital, does any mechanism exist for your medical staff to consider whether a given diagnostic or thera-

peutic measure employed by one of its staff physicians meets the current standard of carefulness?

In your hospital, is your medical staff actively working with one another and with other members of the hospital staff—particularly with nurses and pharmacists—to develop a system of checks and balances to protect the patient on the one hand and each other on the other from claims of ignoring the standard of carefulness?

In your hospital, does your medical staff tolerate a physician who "pops off at" "shoots from the mouth toward" or "inappropriately deprecates" a nurse for behavior she/he believes is in the patient's best interest?

While many would seek a return to the good old days of the community's professional practice as reflecting the standard of care, such apparently is not about to occur. Instead of wishfully dreaming, do your utmost to see how your patients can best be served by you as a "reasonably prudent physician." It will not only be in your patient's best interests, but also in yours and all of us who are practicing in the state of Washington. If you are interested in a more detailed consideration of these issues, contact John Arveson at the WSMA and a copy of Professor Roddis' entire opinion will be forwarded to you. □

## WSPSRO to Study Care in ERs

Washington State PSRO (WSPSRO) will study quality of care rendered to headache patients and non-traumatic chest pain patients in emergency departments of selected Washington hospitals during November. The study will be conducted from November 2 through November 15.

The review is being done in response to data collected in an emergency department study early this year by WSPSRO which showed some hospitals have a serious liability risk because they differed significantly from the norm in:

(a) Numbers of headache patients to whom parenteral narcotics are administered who are unaccompanied on discharge. Seven hospitals of 20 originally surveyed will be re-studied on this issue. WSPSRO's goal is to demonstrate a reduction in the percentage of these unaccompanied patients from 56.6% (the average for the seven hospitals) to at least 25% (the average for the 20).

(b) Assessment and documentation of assessment of the diaphoresis status of non-traumatic chest pain patients with final discharge diagnoses of myocardial infarction, rule-out myocardial infarction or other cardiac-related condition. WSPSRO's goal with the 12 of the original 20 hospitals participating in this restudy is to demonstrate an increase in the percentage of these patients with appropriate notations from 55.8% (the average for the 12 hospitals) to 75% (the average for the 20 hospitals was 66.5%).

The original emergency department study took place January 12 through February 8, 1981, and looked at records of all patients presenting with complaints of headache, earache and non-traumatic chest pain. Twenty hospitals, selected from the state hospital commission's peer groups 3 and 4, participated. Excluded were small rural hospitals and

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large tertiary hospitals with trauma centers. The hospitals had bed capacities ranging from 71 to 239. During the study, 2,670 cases were reviewed. WSPSRO's ad hoc committee on emergency department review decided that the issue of greatest importance in the study was quality of care, particularly where the quality indicates an increased liability risk.

Representatives of the Washington chapter of the American College of Emergency Physicians and the Wash-

ington State Nurses Association assisted in the development of the methodology and identification of issues to be studied.

### **Revenue Woes Topic of Special Legislative Session**

The Legislature will convene in special session on November 9 to consider solutions to bolster faltering state revenues including a tax increase. Without additional revenue, nursing homes will not receive an increase promised by the 1981 Legislature, some mental health programs will lose as much as 80 percent of their budgets, and physicians

A follow-up study for all hospitals participating in the original emergency department study will take place January 12 through February 8, 1982. □

and other health care providers will not receive increases in Medicaid payments.

Physicians are urged to express their views on these matters to their legislators, either by letter (State Senator or Representative \_\_\_\_\_, Olympia, WA 98504) or by calling the tollfree Legislative Hotline 1-800-562-6000. □

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